



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 80**

**[EPA-HQ-OAR-2013-0787; FRL-9908-13-OAR]**

# **Approval of States' Requests to Relax the Federal Reid Vapor Pressure Volatility Standard in Florida, and the Raleigh-Durham-Chapel Hill and Greensboro/Winston-Salem/High Point Areas in North Carolina**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve requests from Florida and North Carolina for the EPA to relax the Reid Vapor Pressure (RVP) Standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in six counties in Florida, and in counties in the Raleigh-Durham-Chapel Hill Area (also referred to as the "Triangle Area") and the Greensboro/Winston-Salem/High Point Area (also referred to as the "Triad Area") in North Carolina. Specifically, the EPA is approving amendments to the regulations to change the RVP standard for six counties in Florida, and for the counties in the Triangle and Triad Areas from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has determined that these changes to the federal RVP regulation are consistent with the applicable provisions of the Clean Air Act (CAA or Act). This action is being taken without prior proposal because the EPA believes that this final rulemaking is

noncontroversial, for the reasons set forth in this preamble, and due to the limited scope of this action.

**DATES:** This direct final rule will become effective [Insert date 60 days after publication in the Federal Register] without further notice, unless the EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If the EPA receives such comments, the Agency will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0787, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
3. Fax: 202-566-9744
4. Mail: Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Please include two copies.
5. Hand Delivery or Courier: U.S. Environmental Protection Agency, EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2013-0787. The EPA's policy is that all comments received will be included in the public docket without change and

may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the Agency may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301

Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Rudolph Kapichak, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4574; fax number 734-214-4052; e-mail address: [kapichak.rudolph@epa.gov](mailto:kapichak.rudolph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Organization of this document. The following outline is provided to aid in locating information in this preamble.

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### **I. General Information**

Throughout this document, “the Agency” is used to mean the EPA.

#### *A. Why is the EPA Using a Direct Final Rule?*

The EPA is making these revisions as a direct final rule without prior proposal because the EPA views these revisions as noncontroversial and anticipates no adverse comment. The rationale for this rulemaking is described in detail below. If the EPA receives no adverse comment, the Agency will not take further action on the proposed rule. If the EPA receives adverse comment on the rule or any portion of the rule, the Agency will withdraw the direct final rule or the portion of the rule that received adverse comment. All public comments received will then be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this rulemaking. Any parties interested in commenting must do so at this time.

#### *B. Does this Action Apply to Me?*

Entities potentially affected by this rule are fuel producers and distributors who do business in Florida and in North Carolina. Regulated entities include:

Examples of potentially regulated entities	NAICS codes <sup>a</sup>
Petroleum refineries	324110

Gasoline Marketers and Distributors	424710
	424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220
	484230

<sup>a</sup> North American Industry Classification System (NAICS).

This table provides only a guide for readers regarding entities likely to be regulated by this action. You should carefully examine the regulations in 40 CFR 80.27 to determine whether your facility is impacted. If you have further questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

#### *C. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to the EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## **II. Actions Being Taken**

This final rule approves a request from Florida to change the summertime RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). Additionally, this final rule approves a request from North Carolina to change the summertime RVP standard for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The Triangle Area is comprised of Durham and Wake Counties, and the Dutchville

Township portion of Granville County. The Triad Area is comprised of the counties of Davidson, Forsyth and Guilford in their entirety, and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River.

In previous rulemakings, the EPA approved state implementation plan (SIP) revisions from Florida and North Carolina which provided technical analyses that demonstrated that removal of the Federal RVP requirements of 7.8 psi for gasoline sold between June 1 and September 15 of each year in the six counties in Florida, and the North Carolina Triangle and Triad Areas would not interfere with maintenance of the national ambient air quality standards (NAAQS) in these areas. For more information on Florida's SIP revision for the six Florida counties and the EPA's analysis of Florida's SIP revision refer to the January 6, 2014, final rule at 79 FR 573; on North Carolina's SIP revision for the Triangle Area refer to the January 2, 2014 final rule at 79 FR 47; and on North Carolina's SIP revision for the Triad Area refer to the January 24, 2014 final rule at 79 FR 4082.

As mentioned above, this final rule approves requests from Florida and North Carolina to change the summertime RVP standard for six Florida counties, and for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The preamble for this rulemaking is organized as follows. Section III provides the history of federal gasoline volatility regulation. Section IV describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section V provides information specific to Florida's request for the six counties currently subject to the 7.8 psi summertime RVP requirements. Section VI provides information specific to North Carolina's requests for the counties in the Triangle and Triad Areas that are currently subject to the 7.8 psi



summertime RVP requirements. Finally, Section VII presents the final actions in response to the requests from Florida and North Carolina.

### **III. History of the Gasoline Volatility Requirement**

On August 19, 1987 (52 FR 31274), the EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of the CAA, the EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), the EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires the EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits the EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), the EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, the EPA will rely on states to initiate changes to the volatility program. The EPA's policy for approving such changes is described in Section IV of this notice.

Florida and North Carolina have initiated these changes by requesting that the EPA relax the 7.8 psi RVP standard for counties that are in ozone maintenance areas. Accordingly, the States revised their original modeling and maintenance demonstrations for these areas to reflect continued attainment under the relaxed 9.0 psi RVP standard that the states have requested. See Section V of this action for information specific to Florida's request for the six counties currently subject to the 7.8 psi summertime RVP requirements. See Section VI of this action for

information specific to North Carolina's requests for the counties in the Triangle and Triad Areas that are currently subject to the 7.8 psi summertime RVP requirements.

#### **IV. EPA's Policy Regarding Relaxation of Volatility Standards in Ozone Nonattainment Areas that are Redesignated as Attainment Areas**

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where the EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the 7.8 psi RVP will remain in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that revises the RVP standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991, rulemaking, the EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, the EPA will not relax the volatility standard unless the state requests a relaxation and the

maintenance plan demonstrates, to the satisfaction of the EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

## **V. EPA's Analysis of Florida's Request to Relax the Federal RVP Requirements in the State**

On November 6, 1991, the EPA designated and classified the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirements for gasoline sold in these three 1-hour ozone nonattainment areas was 7.8 psi from June 1 through September 15 of each year. Subsequently, each area was redesignated to attainment for the 1-hour ozone NAAQS.<sup>1</sup> Florida's redesignation requests did not include a request for relaxation of the gasoline volatility standard.<sup>2,3</sup>

On August 15, 2013, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. The State also submitted a technical analysis which demonstrated that the

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<sup>1</sup> 60 FR 41, (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

<sup>2</sup> Effective on June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857.

<sup>3</sup> Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

less-stringent RVP in these counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard.<sup>4</sup> Specifically, the State updated the 10-year maintenance plans that were submitted for the three 1-hour ozone maintenance areas under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.<sup>5</sup> As required, these section 110(a)(1) maintenance plans provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also included components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should an area violate the NAAQS. Florida's previous ozone redesignation requests and maintenance plans for these areas did not remove the 7.8 psi RVP standard. *See* 75 FR 29671 (May 27, 2010).

As mentioned above, on August 15, 2013, FDEP submitted changes to the three section 110(a)(1) maintenance plans that collectively cover Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. Florida's August 15, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plans to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for these areas. Specifically, Florida's August 15, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated Florida's August 15, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment and no comments were received. The EPA

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<sup>4</sup> Maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (April 30, 2004).

<sup>5</sup>The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. *See* 73 FR 8202, 8205 (February 13, 2008).

approved Florida's August 15, 2013, SIP revision on January 6, 2014. *See* 79 FR 573 In this action, based on the previous approval of Florida's August 15, 2013, SIP revision, and the fact that the areas are currently attaining all ozone NAAQS, the EPA is approving Florida's request to relax the high ozone season RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties from 7.8 psi to 9.0 psi.

## **VI. EPA's Analysis of North Carolina's Requests to Relax the Federal RVP Requirements in the Triangle and Triad Areas**

The following two sections provide the EPA's analysis of North Carolina's requests to relax the Federal RVP requirements in the Triangle and Triad Areas.

### **A. EPA's Analysis of North Carolina's Requests to Relax the Federal RVP Requirement in the Triangle Area**

On November 6, 1991, the EPA designated and classified Durham and Wake Counties, and the Dutchville Township portion of Granville County (also known as the Triangle Area at the time) as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triangle Area was 7.8 psi from June 1 through September 15 of each year. On April 18, 1994, the Triangle Area was redesignated to attainment for the 1-hour

ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triangle Area did not include a request for relaxation of the gasoline volatility standard.<sup>6,7,8</sup>

On March 27, 2013, the State of North Carolina, through the North Carolina Department of Environment, and Natural Resources (NC DENR), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Wake and Durham Counties, and the Dutchville Township portion of Granville County that was originally included in the 1-hour ozone nonattainment area. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in these counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triangle 1997 8-hour ozone maintenance area under section 175A of the CAA. As required, this section 175A maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the EPA's redesignation of the area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should the area violate the NAAQS. North Carolina's previous ozone redesignation requests and maintenance plans for this area did not remove the 7.8 psi RVP standard. *See* 72 FR 72948 (December 26, 2007).

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<sup>6</sup> Effective on June 15, 2004, the nonattainment area for the Triangle Area for the 1997 ozone NAAQS was expanded from Durham and Wake Counties, and the Dutchville Township portion of Granville County, to also include Franklin, Johnston, Orange, and Person Counties, and the remainder of Granville County and Baldwin, Center, New Hope and Williams Townships in Chatham County . *See* 69 FR 23857

<sup>7</sup> On December 26, 2007 the Triangle Area was redesignated to attainment for the 1997 8-hour ozone NAAQS. *See* 72 FR 72948

<sup>8</sup> Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088

As mentioned above, on March 27, 2013, NC DENR submitted changes to the 175A maintenance plan for the Triangle Area. North Carolina's March 27, 2013, SIP revision modifies the existing section 175A maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the Triangle Area. Specifically, North Carolina's March 27, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's March 27, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment, and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's March 27, 2013, SIP revision on January 2, 2014. *See* 79 FR 47. In this action, based on the EPA's previous approval of North Carolina's March 27, 2013, SIP revision, and the fact that the Triangle Area is currently attaining all ozone NAAQS, the EPA is approving North Carolina's request to relax the RVP standard for Wake and Durham Counties, and a portion of Granville County in North Carolina from 7.8 psi to 9.0 psi from June 1 through September 15 of each year.

**B. EPA's Analysis of North Carolina's Requests to Relax the Federal RVP Requirement in the Triad Area**

On November 6, 1991, the EPA designated Davidson, Forsyth and Guilford counties in their entirety and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River in the Triad Area as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS



was the requirement to meet certain RVP standards for gasoline sold commercially during the ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triad Area was 7.8 psi from June 1 through September 15 of each year. On April 18, 1994, the Triad Area was redesignated to attainment for the 1-hour ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triad Area did not include a request for the relaxation of the gasoline volatility standard.<sup>9,10,11,12</sup>

On April 12, 2013, the State of North Carolina, through NC DENR, submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Davidson, Forsyth and Guilford Counties and the relevant portion of Davie County. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in the aforementioned counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triad 1-hour ozone maintenance area under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.<sup>13</sup> As required, this section 110(a)(1) maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of the area's designation as attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-

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<sup>9</sup> Effective June 15, 2004 for the 1997 ozone NAAQS, the Triad Area was designated as nonattainment with a deferred effective date as part of the Early Action Compact (EAC) program. As part of this action the Triad Area was expanded to include the entire county of Davie, and Alamance, Caswell, Randolph, and Rockingham Counties in their entirety. *See* 69 FR 23857

<sup>10</sup> For more information on the EAC program, see, [http://www.epa.gov/airquality/eac/fs20080331\\_eac.html](http://www.epa.gov/airquality/eac/fs20080331_eac.html).

<sup>11</sup> The Triad Area attained the 1997 ozone NAAQS and on February 2, 2008, the EPA finalized an action for 13 nonattainment areas with deferred effective dates, including the Triad Area, designating these areas attainment for the 1997 8-hour ozone NAAQS. However, as a former 1-hour ozone maintenance area the Triad Area was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA. *See* 73 FR 17897

<sup>12</sup> Effective July 20, 2012, the Triad Area counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088

<sup>13</sup> The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. 73 FR 8202, 8205 (February 13, 2008).

hour ozone NAAQS, and provided contingency measures should the area violate the NAAQS. North Carolina's previous ozone redesignation request and maintenance plan for this area did not remove the 7.8 psi RVP standard. *See* 77 FR 3611 (January 25, 2012).

As mentioned above, on April 12, 2013, NC DENR submitted changes to the section 110(a)(1) maintenance plan for the Triad Area. North Carolina's April 12, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the area. Specifically, North Carolina's April 12, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's April 12, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's April 12, 2013, SIP revision on January 24, 2014. *See* 79 FR 4082. In this action, based on the previous approval of North Carolina's April 12, 2013, SIP revision, and the fact that the Triad Area is currently attaining all ozone NAAQS, the EPA is approving North Carolina's request to relax the high ozone season RVP standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from 7.8 psi to 9.0 psi.

## **VII. Final Action**

The EPA is taking direct final action to approve requests from Florida and North Carolina for the EPA to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year in six counties in Florida, and in the counties of the Triangle and Triad Areas in North Carolina. Specifically, this action amends the applicable RVP standard

from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida; Wake and Durham Counties, and a portion of Dutchville Township in Granville County in the Triangle Area in North Carolina; and Davidson, Forsyth and Guilford Counties and a portion of Davie County in the Triad Area.

The EPA is making these revisions without prior proposal because the Agency views these revisions as noncontroversial and anticipates no adverse comment. However, in the Proposed Rules section of this Federal Register publication, the EPA is publishing a separate document that will serve as the proposal to approve these revisions to the RVP standards that apply in Florida and in the North Carolina Triangle and Triad Areas should adverse comments be filed. This rule will become effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If the EPA receives adverse comment on the rule or any portion of the rule, the Agency will withdraw the direct final rule or the portion of the rule that received adverse comment. The EPA will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will become effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

## **VIII. Statutory and Executive Order Reviews**

### *A. Executive Order 12866: Regulatory Planning and Review*

As of January 24, 2014, the Office of Management and Budget (OMB), determined that this action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

### *B. Paperwork Reduction Act*

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and therefore is not subject to these requirements.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the Florida and North Carolina areas and gasoline distributors and retail stations in those areas.

This action will relax the federal RVP standard for gasoline sold in portions of Florida and North Carolina, during the ozone control season (June 1 to September 15), from 7.8 psi to 9.0 psi, and is therefore expected not to have a significant economic impact on a substantial number of small entities. The rule does not impose any requirements or create impacts on small entities beyond those, if any, already required by or resulting from the CAA Section 211(h) Volatility Control program.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed

and final rules with “Federal mandates” that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's final rule affects portions of Florida and North Carolina of which the EPA estimates lower fuel costs as a result of this action, therefore reducing cost on businesses and consumers. Today's final rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small

governments. As discussed above, the rule relaxes an existing standard and affects only the gasoline industry.

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255 August 10, 1999), requires the EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.”

“Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This rule does not have tribal implications, as specified in Executive Order 13175.

*G. Executive Order 13045: Protection of Children From Environmental*

*Health and Safety Risks*

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211: Actions That Significantly Affect Energy*

*Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*



Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the applicable 8-hour ozone NAAQS which establish the level of protection provided to human health or the environment. This rule will relax the applicable volatility

standard of gasoline during the summer possibly resulting in slightly higher mobile source emissions. However, Florida and North Carolina have demonstrated in maintenance plans that this action will not interfere with attainment of the 8-hour ozone NAAQS and therefore disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result.

#### *K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a major rule as defined by 5 U.S.C. section 804(2). This rule will become effective **[insert date 60 days from date of publication of this document in the Federal Register]** unless the EPA receives adverse written comments by **[insert date 30 days from date of publication of this document in the Federal Register]**.

#### *L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

## **IX. Legal Authority and Statutory Provisions**

Authority for this final action is in sections 211(h) and 301(a) of the CAA, 42 U.S.C. 7545(h) and 7601(a).

**List of Subjects in 40 CFR Part 80**

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 19, 2014.

Gina McCarthy,  
Administrator.

Title 40, chapter I, part 80 of the Code of Federal Regulations is amended as follows:

**PART 80—REGULATION OF FUELS AND FUEL ADDITIVES**

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

2. In § 80.27(a)(2)(ii), the table is amended by:
  - a. Revising the entry for Florida;
  - b. Revising the entry for North Carolina; and
  - c. Adding footnotes 5, 6, and 7.

The revisions and additions read as follows:

**§ 80.27 Controls and prohibitions on gasoline volatility.**

(a) \* \* \*

(2) \* \* \*

(ii) \* \* \*

## Applicable Standards<sup>1</sup> 1992 and Subsequent Years

State	May	June	July	August	September
* * * * *					
Florida	9.0	9.0	9.0	9.0	9.0
Southeast Florida, Tampa Bay and Jacksonville <sup>5</sup>	9.0	9.0	9.0	9.0	9.0
* * * * *					
North Carolina					
Triad <sup>6</sup>	9.0	9.0	9.0	9.0	9.0
Triangle <sup>7</sup>	9.0	9.0	9.0	9.0	9.0
All other volatility nonattainment areas	9.0	7.8	7.8	7.8	7.8
* * * * *					

\* \* \* \* \*

<sup>5</sup> The standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

<sup>6</sup> The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

<sup>7</sup> The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

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